

CHAPTER 279**(HB 202)**

AN ACT relating to foster and adopted children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky finds and declares that it is in the best interests of the Commonwealth to encourage and support adults to adopt and provide foster care for children in the custody of the state. The General Assembly recognizes that a child whose care, custody, and control has been assumed by the Commonwealth as evidenced by termination of the rights of the biological parents and adoption from state custody or a custodial commitment to the Cabinet for Families and Children or the Department of Juvenile Justice is a special ward of the state and faces particular challenges in pursuing higher education. Because it is the intent of the General Assembly to support adoption, foster parenting, and educational advancement, the purpose of Section 2 of this Act is to provide postsecondary education advancement opportunity for foster and adopted children who are or were wards of the state.

Section 2. KRS 164.2847 is amended to read as follows:

- (1) Tuition and mandatory student fees for any ***undergraduate program of any Kentucky*** public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time ***or part-time*** student if:
 - ~~(a) —~~ the student meets all entrance requirements ***and*** ~~[for the postsecondary institution];~~
 - ~~(b) — The student~~ maintains academic eligibility while enrolled at the postsecondary institution, ~~[,]~~ and ***if***:
 - ~~[(c) — The student is over age eighteen (18) and]~~
 - (a) The student's family receives state-funded adoption assistance under KRS 199.555;
 - (b) ***The student*** is currently ***committed to the Cabinet for Families and Children under KRS 610.010(4) and*** placed in a family foster home or is placed in accordance with ***KRS 605.090(3)*** ~~[care by the Cabinet for Families and Children or the Department of Juvenile Justice];~~
 - (c) ***The student*** is in an independent living program ***and the placement is funded by the Cabinet for Families and Children;***
 - (d) ***The student who is an adopted child*** was in the ***permanent legal*** custody of ***and placed for adoption by*** the Cabinet for Families and Children. ***A student who meets the eligibility criteria of the paragraph and lives outside of Kentucky at the time of application to a Kentucky postsecondary institution may apply for the waiver up to the amount of tuition for a Kentucky resident*** ~~[or the Department of Juvenile Justice prior to being adopted by a family that resides in Kentucky];~~ or
 - (e) ~~[was in the custody of —]~~ The Cabinet for Families and Children ***was the student's legal custodian*** ~~[or the Department of Juvenile Justice]~~ on his or her eighteenth birthday.

- (2) *Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Department of Juvenile Justice foster child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution and obtains a recommendation for participation from an official from the Department of Juvenile Justice, and if:*
- (a) *The student has not been sentenced to the Department of Juvenile Justice under KRS Chapter 640;*
 - (b) *The student has been committed to the Department of Juvenile Justice for a period of at least two (2) years;*
 - (c) *The student is in an independent living program and placement is funded by the Department of Juvenile Justice;*
 - (d) *The parental rights of the student's biological parents have been terminated; or*
 - (e) *The student was committed to the Cabinet for Families and Children prior to a commitment to the Department of Juvenile Justice.*
- (3) Upon request of the postsecondary institution, the Cabinet for Families and Children shall confirm the *eligibility* status *under subsection (1) of this section and the Department of Juvenile Justice shall confirm the eligibility status and recommendations under subsection (2) of this section* of the student seeking to participate in the waiver program. Release of this information shall not constitute a breach of confidentiality required by KRS 199.570, 610.320, or 620.050.
- ~~(4)~~~~(3)~~ The student shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the sum of the tuition waiver plus other student financial assistance, except loans *and the work study program under 42 U.S.C. sec. 2751-2756b*, from all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C. sec. 1087ll, the tuition waiver shall be reduced by the amount exceeding the total cost of attendance.
- ~~(5)~~~~(4)~~ The student shall be eligible for the tuition waiver:
- (a) For entrance to the institution for a period of no more than four (4) years after the date of graduation from high school; and
 - (b) For a period of five (5) years after *first* admittance to *any Kentucky*~~an~~ institution if satisfactory progress is achieved or maintained.
- ~~(6)~~~~(5)~~ *The Cabinet for Families and Children shall report the number of students participating in the tuition waiver program under subsection (1) of this section and the Department of Juvenile Justice shall report the number of students participating in the tuition waiver program under subsection (2) of this section on October 1 each year to the Council on Postsecondary Education and the Legislative Research Commission.*
- (7) *The Council on Postsecondary Education shall report nonidentifying data on graduation rates of students participating in the tuition waiver program by November 30 each year to the Legislative Research Commission.*

~~(8) No later than six (6) months after June 21, 2001, the Cabinet for Families and Children shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement provisions of subsection (2) of this section.~~

~~(6)~~ Nothing in this section shall be construed to:

- (a) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;
- (b) Limit the participation of a foster or adopted *student*~~[child]~~ in any other program of financial assistance for postsecondary education;~~[or]~~
- (c) Require any postsecondary institution to waive costs or fees relating to room and board; *or*
- (d) ***Restrict any postsecondary institution, the Department of Juvenile Justice, or the Cabinet for Families and Children from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student.***

Section 3. KRS 605.090 is amended to read as follows:

- (1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:
 - (a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;
 - (b) Placed in the home of the child's parents, in the home of a relative, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a social service worker or juvenile probation and parole officer.
 - 1. At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary.
 - 2. ***At the time a committed child is placed anywhere other than the home of the child's parents, the cabinet or the Department of Juvenile Justice shall inform the foster home, the relative, or the governing authority of any private facility or agency in which the child has been placed whether the minor placed is a juvenile sexual offender as defined in KRS 635.505(2) or of any inappropriate sexual acts or sexual behavior by the child specifically known to the cabinet or Department of Juvenile Justice, and any behaviors of the child specifically known to the cabinet or Department of Juvenile Justice that indicate a safety risk for the placement. Information received by any private facility or agency under this paragraph shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.***
 - 3. ***If, after a placement is made, additional information is obtained by the cabinet or the Department of Juvenile Justice about inappropriate sexual behavior or other behavior of the committed child that may indicate a safety risk for the placement, the cabinet or the Department of Juvenile Justice shall as soon as***

practicable, but no later than seventy-two (72) hours after the additional information is received, inform the foster parent, relative, or private facility or agency. Additional information received by any private facility or agency shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.

4. *Information disclosed under this paragraph shall be limited to the acts or behaviors of the committed child and shall not constitute a violation of confidentiality under KRS Chapter 610 or 620. No foster parent, relative, or other person caring for a committed child shall divulge the information received under this paragraph to persons who do not have a legitimate interest or responsibility relating to the case. A violation of this subparagraph is a Class B misdemeanor;*
- (c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c), or (d) shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;
 - (d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;
 - (e) Treated as provided in KRS Chapter 645;
 - (f) Following the transfer or placement of a child pursuant to paragraphs (b), (c), (d), or (e) of this subsection, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.
- (2) No child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders;
- (3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of the child's parents, the child shall not be removed except in accordance with the following standards and procedures:
- (a) If the social service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the social service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;
 - (b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant

to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the social service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

- (c) If a social service worker finds a committed, unattended child who is too young to take care of himself, the social service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the social service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or
 - (d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the social service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.
- (4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.
 - (5) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.
 - (6) The Department of Juvenile Justice or the cabinet shall provide a written transfer summary to the person in charge of any foster home or any governing authority of any private facility or agency in which the Department of Juvenile Justice or the cabinet has placed a child. The written summary shall include, at a minimum, demographic information about the child, a narrative statement detailing the child's prior placements, the length of time the child has

been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan for the child and the child's family, and a copy of the child's medical and educational passport, if available, provided that no information shall be provided that violates any statutory confidentiality requirements. ***The transfer summary shall state whether the child placed is a juvenile sexual offender as defined in KRS 635.505(2), and include information required under subsection (1) of this section.*** The transfer summary shall be provided by the Department of Juvenile Justice if it is responsible for the child, or the cabinet if it is responsible for the child, within seven (7) days of the placement of the child with the person, agency, or facility providing care to the child.

- (7) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

Approved April 9, 2002